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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,358	07/07/2003	Ravindra Kankaria	HOO-01	7820
23508	7590	02/23/2006	EXAMINER	
LUNDEEN & DICKINSON, LLP PO BOX 131144 HOUSTON, TX 77219-1144			LEGESSE, NINI F	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,358	Applicant(s) KANKARIA ET AL.	
	Examiner Nini F. Legesse	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-26 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-21 is/are rejected.
- 7) ☒ Claim(s) 11, 12, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Nini F. Legesse
 NINI F. LEGESSE
 PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 13 is objected to because of the following informalities: the expression "an case" appears to be a typing error. Please change this expression to - - A case - -.

Claims 10 and 20 are objected to because of the following informalities: the expression "tow" need to be deleted form the claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 8 and 13- 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Horn (US Patent No. 5,848,700).

Regarding claims 1 and 13, Horn discloses a bifurcated case (see Figs1 and 2) having a first compartment (16), a second compartment (14), and a divider (24) as claimed.

Regarding the intended use set forth in the claims, the Horn device inherently is capable of being used as a case of optometric trial lenses. Please note that the examiner is giving the broadest reasonable interpretation of the claims as set forth in MPEP 904.01(a). The examiner notes that the claims must be structurally distinguishable form

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the prior art. See MPEP 2114. Please note that apparatus claims need to distinguish over the prior art with structure and not function or intended use.

Regarding claims 2 and 14, the compartments (56) are considered to be the claimed plurality of scalloped recesses.

Regarding claims 3 and 15, since the dividers of the Horn invention are made of plastic (see column 1 lines 36+) and these dividers are considered non-abrasive.

Regarding claims 4, 5, 6, 16, and 17, the compartments (14, 16) and the divider (24) are capable of being positioned as claimed (see Figs. 1-2).

Regarding claim 7, the divider caddy is lockable into the claimed position (see Fig. 1).

Regarding claims 8 and 18, element 18 is the handle.

Claims 1,13, 10, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cnockaert et al. (US Patent No. 5,924,533).

Regarding claims 1 and 13, Cnockaert discloses a bifurcated case (see Figs1 -5) having a first compartment (11), a second compartment (12), and a divider (200) as claimed. Regarding the intended use set forth in the claims, the Cnockaert device inherently is capable of being used as a case of optometric trial lenses. Please note that the examiner is giving the broadest reasonable interpretation of the claims as set forth in MPEP 904.01(a). The examiner notes that the claims must be structurally distinguishable from the prior art. See MPEP 2114. Please note that apparatus claims need to distinguish over the prior art with structure and not function or intended use.

Regarding claims 10 and 20, Cnockaert discloses a pair of wheels (71, 72) and a handle (21).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horn in view of Cohen (US Patent No. 6,848,581).

Horn discloses the invention as recited above but he fails to include securing rings for a shoulder strap. Cohen discloses the use of securing rings for shoulder straps (see the end of strap 86). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide securing rings in the Horn device as taught by Cohen in order to attach a shoulder strap so that the device can be easily transported from place to place.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horn in view of Robertson (US Patent No. 6,581,760).

Horn fails to disclose the use of a logo on his device. However the use of a logo on a container device is well known and Robertson is one example that teaches it see column 5, lines 59-64). It would have been obvious to one of ordinary skill in the art at

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the time the invention was made to provide the Horn device with a logo upon the outer surface of a device as taught by Robertson for advertising purposes.

Allowable Subject Matter

Claims 24-26 allowed.

Claims 11, 12, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

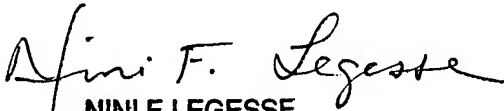
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NFL
02/10/06


NINI F. LEGESSE
PRIMARY EXAMINER